

UNITED STATES OF AMERICA
 NATIONAL TRANSPORTATION SAFETY BOARD
 OFFICE OF ADMINISTRATIVE LAW JUDGES

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Investigation of:

M/V COSCO BUSAN/BRIDGE ALLISION
 SAN FRANCISCO, CALIFORNIA

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 * Docket No.: DCA-08-MM-004
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Interview of: CAPT. PATRICK MALONEY

Thursday,
 January 31, 2008

The above-captioned matter convened, pursuant to
 notice, at 8:35 a.m.

BEFORE: BARRY STRAUCH
 National Transportation Safety Board

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I N T E R V I E W

(8:35 a.m.)

MR. STRAUCH: It's January 31st, it's 8:35. We're interviewing Captain Maloney of the California Board of Pilot Commissioners for the bays of Francisco, San Pablo.

And as we said, I'd like you to acknowledge that you're being recorded and you agree to being recorded.

CAPT. MALONEY: I acknowledge.

MR. STRAUCH: Okay, all right. All right, everybody that's here was here before except Gary Toledo representing --

CAPT. TOLEDO: OSPR, O-S-P-R, Office of Spill Prevention and Response.

MR. STRAUCH: Okay.

CAPT. TOLEDO: From the State of California Department of Fish and Game.

MR. STRAUCH: Okay. And we'll conduct this the way we conducted the other interviews, except Crystal is not here. But I will lead the, the questioning, and then allow everybody in turn to ask questions. Please identify yourselves before you ask questions. Please hold your questions until it's your turn. Everybody will get at least one turn and more if necessary to make sure that we ask the questions that we do.

Captain Maloney, I know in the last interview you were asked about your background, your responsibilities, and how investigations were conducted. So we have those on the

1 record. There's no reason for me to ask them, but if I do ask
2 a question that you answered in a previous interview, please
3 bear with me, and I apologize in advance.

4 CAPT. MALONEY: I understand.

5 INTERVIEW OF CAPT. PATRICK MALONEY

6 BY MR. STRAUCH:

7 Q. Now as I understand it, the -- your organization
8 oversees the San Francisco Bar Pilots Association.

9 A. Yes.

10 Q. Okay. Are there other pilots associations that you,
11 your organization oversees as well?

12 A. We have one inland pilot that we also have the state
13 oversight on, but, no, aside from that it's the San Francisco
14 Bar Pilots and the one inland pilot.

15 Q. By pilot, you mean individual, not organization? One
16 person?

17 A. One person, yes.

18 Q. Okay.

19 A. The last inland pilot.

20 Q. Okay. What happens when that person ceases to be an
21 inland pilot?

22 A. There will be no more inland pilots.

23 Q. Okay. So your organization sounds like it primarily
24 oversees the San Francisco Bar Pilots Association.

25 A. Yes.

1 Q. Okay. And you represent the State in doing this?

2 A. Yes.

3 Q. Okay. Who sets the standards for licensing of the,
4 the Bar Pilots Association?

5 A. Well, all of the pilots have to have -- Master's
6 License. Minimum 1600 tons. After that, it's a matter of
7 testing, and then training.

8 Q. Okay. And who sets the standards of testing and
9 training?

10 A. Well, it's in Commission regulations, so it would
11 have been the Commission as developed over the years.

12 Q. Okay. And how does the Commission ensure that the
13 Bar Pilots are following the Commission's is it regulations or
14 guidelines and licensing?

15 A. Well, we have statutes and we have regulations.

16 Q. Okay.

17 A. So -- how do we determine that they're following it?

18 Q. Yes.

19 A. I don't understand the question. I mean we, we have
20 the oversight for the training and then the pilot's license is
21 renewed annually.

22 Q. Okay. And the renewal of the licenses, that's
23 according to which standards?

24 A. Well, they, they have to apply for the renewal,
25 provide a copy of their federal license so we're sure that

1 that's still valid, and pass a physical examination. Depending
2 on their age, either every other year or every year.

3 Q. Okay. So the standards that they must meet in annual
4 renewal are federal standards or state standards or both?

5 A. Well, they have to meet the, the physical standards
6 for the Coast Guard.

7 Q. Okay.

8 A. And aside from that, maintain their license.

9 Q. Okay. Does the State have physical requirements that
10 differ in any way from the federal requirements?

11 A. Not that I'm aware of. We have the SHIPS Guidelines.
12 Are you familiar with that?

13 Q. No.

14 A. Let me get a copy. SHIPS is an acronym. Seafarers
15 Health Improvement Program. And that was under the sponsorship
16 of the Maritime Administration. Our board physicians have
17 copies of this, and then we also provide the pilot with the
18 copy of the Coast Guard physical form.

19 Q. Okay. So these standards are -- are they comparable
20 to the Coast Guard? I, I -- since I haven't seen them, I have
21 to ask you to characterize it.

22 A. I don't know.

23 Q. Okay. What are the requirements that the State has
24 on pilots to report medication use?

25 A. We do not have them.

1 Q. Okay.

2 A. They, they would report that to their physician when
3 they're getting their physical.

4 Q. Okay. And as you understand the federal rules, what
5 are pilots' requirements to report medication use to the Coast
6 Guard?

7 A. That I don't know.

8 Q. Okay. Are there any medications that the State
9 prohibits pilots from using?

10 A. Not that I'm aware of.

11 Q. Are there any physical conditions that the state
12 prohibits pilots from having while serving as a pilot?

13 A. That is in the SHIPS Guidelines. There are
14 prohibitions, yes.

15 Q. Okay. Do you know what they are?

16 A. There's a list of just qualifying conditions,
17 absolute exclusions, and do you want me to go over this list?
18 It's several pages long.

19 Q. Maybe if you could just kind of just give us the
20 highlights, if you would. Or what they include.

21 A. Neoplasms.

22 Q. Cancer.

23 A. Yeah.

24 Q. Endocrine nutritional and metabolic diseases, disease
25 of blood and blood form, organs, hemophilia for instance. I

1 have friends who had to stop sailing. Mental disorders,
2 diseases of the nervous system and sense organs. There are
3 visual acuity standards. There are hearing standards.
4 Diseases of circulatory system, diseases of respiratory system,
5 diseases of digestive symptoms, diseases of genital urinary
6 system and musculoskeletal system, amputations for instance,
7 double amputees.

8 Q. Okay.

9 A. There are other conditions that are disqualifying
10 during a period but can be recovered from, including just
11 lesser levels of the ones mentioned.

12 Q. Have you given these guidelines to the Safety Board,
13 a copy of these guidelines?

14 A. To NTSB?

15 Q. Yes.

16 A. I did not last time. I can make you a copy.

17 Q. Please. If you would.

18 A. Sure.

19 Q. How does the State ensure that a pilot meets all the
20 conditions?

21 A. We have four physicians, who we've provided copies of
22 this to, and the, the pilots do their physicals with those
23 physicians.

24 Q. Who are the four physicians?

25 A. I can give you a list of them.

1 Q. Does it include Dr. Calen (ph.)?

2 A. Yes.

3 Q. Okay. And pilots go only to one of these physicians?

4 A. Yes.

5 Q. Is that by statute?

6 A. Yes.

7 Q. How do these physicians become aware of conditions
8 that pilots may have that may not be disqualifying that would
9 be of interest to the state that they would be reporting to
10 their primary physician?

11 A. Well, the pilot would have to tell them.

12 Q. And is that by statute or by some other way?

13 A. I don't think it's referred to in statute.

14 Q. Okay. So is, is there any requirement that a pilot
15 report his medical conditions to one of these four physicians?

16 A. I don't know. I'd have to get the, the regulation
17 and look at it.

18 Q. Okay.

19 A. And I can provide you with a copy of the regulation.

20 Q. If you would.

21 A. Sure.

22 Q. Okay. How often are you in contact with
23 representatives of management of the Bar Pilots Association?

24 A. The port captain? Or I'm sorry, the port agent?

25 Q. Yeah. Whoever would represent the Association at a

1 senior level.

2 A. As often as necessary.

3 Q. About how often would that be?

4 A. Multiple times during a week.

5 Q. Okay. And what kinds of things do you discuss with,
6 with this person?

7 A. Well, Commission matters. He would be the conduit
8 that I would find out about an incident.

9 Q. Uh-huh. Okay.

10 A. So anytime we have, we have business.

11 Q. Okay. And I know last time you talked about how you
12 investigated an incident and the process you used and so on and
13 so forth. When an incident is -- well, you describe how -- the
14 resolution of incident and what happens after that.

15 A. Well, it depends on what the incident is.

16 Q. Okay.

17 A. That's awfully wide.

18 Q. Let me just refer to one of Captain Cota's incident,
19 and my question now is more generic, but there's an incident in
20 April '97 that involved an allision with a container gantry
21 crane at Oakland, number 37, attributed to minor pilot error.
22 Positioning of crane contributed to the, to the incident.

23 A. Uh-huh.

24 Q. The vessel, I think, was the -- Caspian.

25 A. Yes.

1 Q. Okay. So something like that, a relatively minor
2 incident, but there is some pilot involvement, what would
3 happen? Once your investigation is completed, what happens
4 after that?

5 A. well, in that case, as you say, that was some pilot
6 error. We finish the report, and that is disseminated to
7 the -- to all the pilots and any other interested parties and
8 to be used as lessons learned.

9 Q. And are your reports considered public documents?

10 A. They are.

11 Q. Okay. Has the Board requested copies of the reports
12 involving Captain Cota in the --

13 A. I provide copies to all of the commissioners, and
14 they're, they're in the files. I mean if someone wanted to
15 look at them, they're there.

16 Q. Do you know if you provided them to us, the Safety
17 Board?

18 A. I think so, yeah.

19 Q. Okay. Now suppose there is not one incident but a
20 series of incidents over time, over some period of time.

21 A. Uh-huh.

22 Q. How does the Board treat the series of incidents as
23 supposed to each incident individually?

24 A. That is part of my investigation report. I have in
25 my, my list of things that we look at is an enclosure that

1 lists all of a pilot's incidents over his career. And so the
2 Incident Review Committee would look at that and basically see,
3 is there a pattern? And take that into consideration in how we
4 close the incident.

5 Q. And, and forgive me if this was asked before, but
6 what is your role with the Incident Review Committee?

7 A. I am one of the members.

8 Q. Okay.

9 A. Incident Review Committee is myself and a public
10 member.

11 Q. Okay. You are familiar with Captain Cota's record of
12 incidents?

13 A. Yes.

14 Q. How would you characterize his record with other bar
15 pilots' records of similar experience? I think he had 27 years
16 as a, as a bar pilot.

17 A. 26.

18 Q. 26. Okay. What kind of record would you expect of
19 someone with 26 years of experience, record of incidents?

20 A. Well, I would expect to see some, but not many. He
21 had, I believe, five in the last 15 years. There were some
22 prior to that. But the system of investigation wasn't as
23 sophisticated as it is now, and it's, it's hard to come up with
24 valid information on those. So I'm more comfortable with the
25 ones that I investigated.

1 Q. Okay.

2 A. How would I characterize it?

3 Q. Uh-huh.

4 A. I would say more than the average or number but not
5 by much.

6 Q. So are there some with more incidents than Captain
7 Cota?

8 A. Yes.

9 Q. A lot more? A lot more people or --

10 A. A few more.

11 Q. Okay.

12 A. And where they do their work plays a part of it. For
13 instance, you would typically see more incidents for the guys
14 who are running the rivers because of the, the much more
15 confined waters and the circumstances of what they do up there.

16 Q. Did Captain Cota's area include rivers?

17 A. No, it does not.

18 Q. So if you look exclusively at those pilots whose area
19 did not include the rivers, how does Captain Cota's record
20 compare with others?

21 A. Well, as I say, generally more incidents than average
22 but not by a lot. It's kind of hard to quantify.

23 Q. Okay. And now there's one incident that's actually
24 not listed in the record of incidents that I have, and that was
25 in 2004. There was no damage done, perhaps that's not why it's

1 here, but involved a Navy vessel, the USS Tarawa.

2 A. Tarawa.

3 Q. The -- as part of, part of the resolution of that
4 incident, Captain Cota was sent for a psychiatric evaluation.

5 A. Yes.

6 Q. Do you know who sent him to, to the evaluation? Was
7 that the Commission?

8 A. We did, yeah.

9 Q. Okay. And the result of the psychiatric evaluation
10 was that there was no, no disqualifying mental condition?

11 A. Correct.

12 Q. Okay. And was that the, the end of the investigation
13 of the Commission or was there any more thing done after that,
14 after the psychiatric evaluation was --

15 A. No, that was the end of it.

16 Q. Okay. Should there have been more follow-up?

17 A. I don't think so.

18 Q. And why not?

19 A. He got a, he got a clean bill of health. There was
20 nothing else to be done about it. That particular event was
21 treated as a medical issue, not a piloting incident. The
22 piloting that went on with that particular occasion was
23 actually quite good. He was given a very challenging
24 situation, and he did a good job.

25 Q. What was the situation that was challenging?

1 A. The ship, the Tarawa is -- she was like an aircraft
2 carrier, okay. So her island is off on the starboard side.
3 They were coming into Pier 3032, which is just down on the
4 other side of the Bay Bridge. They were going Portside 2 right
5 on the face of the pier and they had flood current. So he's
6 got to turn the ship around and dock it into the current from
7 the off side of the ship, and he did it. He pulled it off
8 just, just fine. When the, when the Incident Review Committee
9 was discussing with him, we, we were impressed with the, the
10 piloting job.

11 Q. When you discussed the other part of it, his
12 behavior, what was your sense of his explanation of his
13 behavior?

14 A. We found it wanting.

15 Q. In what way?

16 A. We found his behavior to be very unprofessional. As
17 I said, the piloting went fine. It was just socially
18 inappropriate behavior.

19 Q. And because it was socially inappropriate, you, you
20 considered it to be a medical issue and not a piloting issue?

21 A. Yes.

22 Q. If you add the Tarawa incident to the other
23 incidents, now you've had six incidents in 10 years, how does
24 that make his average compared to other, other pilots?

25 A. Well, it's still higher than the average.

1 Q. Okay. What does it take for the Commission to look
2 at these incidents and say these are not isolated incidents,
3 these are a pattern of performance and behavior that we need to
4 now look very, very closely at the person's performance level?

5 A. If we were investigating an incident and we saw a
6 pattern, then we would take a look at it, and as far as does it
7 need to be addressed.

8 Q. Did you do that with Captain Cota?

9 A. After the Tarawa incident?

10 Q. After -- up until the Cosco Busan incident.

11 A. The last time he had an incident, we gave him a
12 letter of warning because he had a ship that grounded, and he
13 didn't take corrective action on it. We didn't see a pattern
14 in that, but you know we, we were distressed that he hadn't
15 taken corrective action.

16 Q. Okay. Well, are there any guidelines or advisories
17 that the Commission uses to determine when a series of
18 incidents becomes a pattern of performance or behavior?

19 A. No, there's no guidelines.

20 Q. Should there be?

21 A. There hasn't been a need for it. The -- the number
22 of incidents is relatively small. In some years we have as few
23 as six.

24 Q. So are there any other measures other than incidents
25 or physician evaluations that the Commission uses or the

1 Commission expects the Bar Pilots Association to use to detect
2 performance deficiencies before they occur --

3 A. I wouldn't see any myself. Now I, I'm trying to
4 think how to answer that. We're not involved in the day-to-day
5 operations of the pilots, so I really don't find out if there's
6 something going on unless it turns into an incident.

7 Q. What do you expect the bar pilots to do to -- for
8 their part in this case? Again to detect weaknesses in
9 performance or behavior before they become -- before it could
10 lead to an incident?

11 A. If they thought there was a problem, I would expect
12 the port agent to let me know.

13 Q. Uh-huh. And what would the port agent do to detect
14 weaknesses?

15 A. Well, just observation of the, the members --

16 Q. Okay. Could you describe your relationship with the,
17 with the Coast Guard with the captain of the port?

18 A. As far as what does -- what kind of interaction does
19 the Commission have?

20 Q. Yes. What do you see as the areas of, of
21 responsibilities and how the Commission exercises those
22 responsibilities with the Coast Guard's area of
23 responsibilities and how well the Commission and Coast Guard
24 get along in exercising their individual responsibilities to
25 ensure harbor safety?

1 A. The, the biggest interface we have is with Ross
2 Wheatley's section at the Investigation Shop. In many cases,
3 we have investigations over the same incident, and share
4 information. Aside from that, we don't have too much
5 interaction with the captain of the port, the individual.

6 Q. Okay. So the Coast Guard has their area of
7 responsibilities and the Commission has its own areas of
8 responsibility?

9 A. Well, they have their, they have the federal
10 licensing. We have the state licensing. In the event of an
11 incident, we have shared responsibility on, on the
12 investigations. I mean sometimes my investigator will run into
13 Ross's investigator at the ship at the same time, and as I say,
14 we, we share information sometimes.

15 Q. And --

16 A. We try to make it a complimentary set of
17 investigations. Sometimes my investigator can get information
18 that they -- a Coast Guard investigator might not find, and in
19 many cases, I go to Ross and say have you got this? My guy
20 wasn't able to get it.

21 Q. What about proactive? What, what -- how do you work
22 with the Coast Guard proactively rather than after the fact of
23 an accident in terms of --

24 A. Well, we try to provide the best-trained pilots that
25 we can. We've got the Commission training program under the,

1 the -- there's the trainee program where we're taking people
2 who have not been licensed by the Board yet and training them
3 to be pilots, and then there's the continuing education
4 programs that we send the pilots to, including the manned model
5 simulator at Grenoble, as well as classroom training.

6 Q. Okay. And do you remember you covered this in the
7 previous interview with the Safety Board?

8 A. We didn't talk about the training too much.

9 Q. Well, you -- who sets the standards for training, the
10 Commission or the Bar Pilots Association?

11 A. The Commission sets the standards, and that's based
12 on input from the pilots and from the industry.

13 Q. And from -- by industry you mean whom?

14 A. The shipping industry.

15 Q. Local or international?

16 A. What we have locally.

17 Q. And you said that you have training program. You
18 send people to the simulator at Grenoble. Is that France?

19 A. Yes, it is.

20 Q. And what were the other programs that --

21 A. Well, we've got the, the classroom program, which is
22 currently at MITAGS on the East Coast. That includes bridge
23 resource management. There's, there's a host of other things
24 in the regulation. Electronic navigation systems. It's a
25 five-day course.

1 Q. So you require people spend five days at MITAGS
2 taking classroom training?

3 A. It happens to be MITAGS this time. We've had it at
4 California Maritime Academy. We've had it down San Diego.
5 They just have the current contract.

6 Q. But the key thing is it's five days and includes
7 bridge resource management, electronic charting and so on?

8 A. Yes.

9 Q. Okay. And who pays for that, the Commission or the
10 Bar Pilots Association?

11 A. The Commission does through a surcharge on the
12 pilot --

13 Q. And how often does the Commission look at the
14 training standards and assess whether or not they continue to
15 be adequate?

16 A. At the end of each cycle, which on that particular
17 program is three years.

18 Q. And how has the -- how has you changed over the
19 years?

20 A. It's -- it hasn't changed over the years too much
21 because it was broadly worded to begin with. What has changed
22 is the source of the training. We -- it, it's competitive and,
23 as I say, on the last go around MITAGS provided the best
24 package.

25 Q. And what kind of communications does the Commission

1 have with other -- with your counterparts in other states and
2 localities to ensure that you're keeping up with national level
3 standards?

4 A. We haven't talked so much about standards, but I
5 have -- I've got contacts in the Washington State and Oregon.
6 I haven't talked with anyone in Florida for quite awhile, and
7 it's been awhile since New York also.

8 Q. Well, there are no national standards, is that, is
9 that correct or --

10 A. Not that I'm aware of, no.

11 Q. Okay. Well, what mechanism is there for state pilot
12 commissions to ensure that they maintain the best possible
13 standards given what other commissions are doing throughout,
14 throughout the country, other than informal contacts with
15 people and -- or acquaintances and other officials?

16 A. There hasn't been anything going on recently. In the
17 early '90s, Florida hosted a Pilot Commission Symposium. There
18 were two of those in Florida and one later in New Orleans, and
19 that was the last of them. That was still fairly informal, but
20 it gave us an opportunity to talk about what our programs were
21 like, and it was, it was mostly looking at each other's
22 training. We talked about our incident investigation process.
23 But there hasn't -- as I say, there hasn't been anything
24 recently on that.

25 Q. When was the one -- one in New Orleans was the most

1 recent one?

2 A. Yes. And that was probably '94 or '95.

3 Q. In 1994, the National Academy of Sciences came out
4 with studies piloting called Minding the Helm. Are you
5 familiar with --

6 A. Yes. I've got a copy.

7 Q. Okay. And I think there was -- was there somebody
8 from the Commission who served on that group? Some guy named
9 Arthur.

10 A. Art Thomas.

11 Q. Oh.

12 A. Yeah, he -- I'm trying to think what, what his
13 connection with that study was. He was --

14 Q. That's all -- just -- bring up that name.

15 A. Okay, yeah. I, I've got a copy of it in the
16 bookshelf over there.

17 Q. Okay. Are you familiar with the conclusions of the,
18 of the study?

19 A. It's been years since I looked at it.

20 Q. Okay, so --

21 A. I've read it, but --

22 Q. Okay. So you don't feel qualified to discuss some of
23 the conclusions at this point?

24 A. No.

25 Q. Okay. Well, when you did read it, what did you think

1 of the study?

2 A. I thought it was pretty thorough.

3 Q. Okay. The -- what does the Commission require pilots
4 to do after an accident?

5 A. Report it.

6 Q. Report it. Anything else?

7 A. Well they, they report it immediately to the port
8 agents all -- I've had calls from pilots myself. The inland
9 pilot reports directly to me in case there's something. The --
10 within the pilot organization, they arrange for drug and
11 alcohol testing as soon after as possible. And then we start
12 our investigation. If it's, if it's serious enough, a pilot
13 might not be reassigned until it's been more thoroughly
14 investigated. Generally, that's not the case.

15 Q. How quickly after an accident do you expect to talk
16 to the pilot involved?

17 A. Generally within hours.

18 Q. Uh-huh. And Coast Guard, as I understand it, sends
19 inspectors to -- as quickly as possible after an accident and,
20 and the inspectors among other things try to get crew members
21 -- wandered on, on the vessel. Does the Commission have any
22 requirements that pilots remain on board to await the arrival
23 and work of the Coast Guard inspectors when they board the
24 vessel?

25 A. No. We don't have a Commission requirement for that.

1 Q. Okay. Should there be one?

2 A. I don't think so. The, the pilot is going to be
3 available for being interviewed, and I, I don't see a need for
4 it from, from my standpoint.

5 Q. Okay.

6 A. My investigator will be getting there later. Just
7 from a practical standpoint, holding the pilot on the vessel
8 would impede him getting that drug and alcohol testing done,
9 which other organizations would be very interested in.

10 Q. Okay. Of course it could be argued that the vessel
11 crewmembers have to comply with the same drug and alcohol
12 testing requirements as the pilot does. No?

13 A. No.

14 Q. The -- and forgive me if I asked this question -- but
15 as I understand it, there are no federal standards for civology
16 (ph.) and Ectus (ph.) or radar, is that correct?

17 A. I'm not an expert on that, but that is my
18 understanding also.

19 Q. And do you know about how many different types of
20 displays there might be if one is just using Ectus?

21 A. Only anecdotally. I understand -- and this is from
22 doing our interviews in November, that there are I think a fair
23 amount, you know. How finite is that? I, I don't know. You
24 know, I can't say eight different ones, but information we got
25 from Captain Cota and other pilots are that there are multiple

1 standards out there.

2 Q. Well, given that there is no single standard, some
3 would argue that there should be. How does the Commission
4 ensure that pilots are, are sufficiently familiar with the
5 multiple standards of displays that there are that they could
6 perform effectively given differences in standard civology
7 displays and so on?

8 A. The only training that they would have on that would
9 be during the one-week course we send them to where they would
10 be exposed to what is, what is current in the electronic
11 navigation world. Aside from that, they're going to be getting
12 probably the best opportunities by seeing what's out there,
13 because of the experts, because of having the opportunity to
14 see everything that comes through there.

15 Q. The, the course that they take, whether it's MITAGS
16 or -- or whatever, the one week includes both VRM and
17 electronic navigation?

18 A. Yes.

19 Q. And do you know how many days is spent on each?

20 A. Yeah. The electronic navigation portion I think is
21 only a part of a day. VRM, as I recall, is two days.

22 Q. Okay. And how are the other two plus a fraction days
23 spent?

24 A. I can get you a course synopsis. Let me provide that
25 for you. I haven't been to that particular school so I don't

1 recall.

2 Q. Okay. How often do pilots take this week-long
3 training?

4 A. It's on a three-year cycle, but we're considering
5 moving it to a five-year cycle. That may be reconsidered with
6 the Busan and perhaps more emphasis on electronic navigation.

7 Q. Do you -- how adequate do you consider the fraction
8 of a day as -- navigation in this course?

9 A. It's, it's basically informational. We're, we're
10 putting together a Navigation and Technology Committee that's
11 going to be addressing this at the Commission. And just
12 yesterday we were looking at the, the latest in pilot carried
13 electronic navigation systems.

14 Q. Should there be a requirement that pilots carry their
15 own navigation systems? That way they won't have to depend on
16 local standards, vessels and so on.

17 A. That's going to be addressed by our Navigation and
18 Technology Committee. There's, there's things to be said for
19 it and there's things to be said against it. It -- I don't
20 think it should be mandated. It has to be something that each
21 pilot decides, and that's, that's one of the things we'll be
22 talking about.

23 Q. What are the pros and cons of, of this particular
24 navigation --

25 A. Well, the pros are that you're carrying independent

1 navigation system. Again depends on which system you have, and
2 there are multiple systems out there. And it gives you a, an
3 independent source of navigation beyond what the ship has.
4 Although it can plug in and use ship's navigational information
5 also. So it's one more piece of information. The cons are
6 it's that much more to carry around, and our pilots board 11
7 miles offshore, and that boarding can be somewhat rigorous.
8 Getting on and off the ship is the most dangerous part, and
9 having an additional 10 pounds to carry around, could make it
10 more hazardous.

11 MR. STRAUCH: All right, at this point, I'm going to
12 not ask further questions. Then let's go with Gary and we'll
13 go around the table this way. Again, I'll ask each person to
14 identify themselves before they ask their questions.

15 BY CAPT. TOLEDO:

16 Q. Good morning. Gary Toledo, OSPR. Just have a few
17 questions for you. You, you had mentioned or commented that if
18 a pilot or if there is an incident with a pilot and upon review
19 from the Incident Review Committee, you mentioned that the
20 information is disseminated to the pilots and any other
21 interested party, and then, and also you mentioned something
22 about lessons learned. Now is there -- is that a written
23 procedure in, in your guidelines for as a result of conducting
24 the incident review and your recommendations are that --
25 lessons learned? In other words, is it stated somewhere in

1 your procedures that that's part of the process?

2 A. That is not part of the incident review regulation.

3 You mean as far as getting the information out?

4 Q. Yes.

5 A. No. It's not included in the regulation, but when I
6 started doing this quite a few years ago, I thought, okay,
7 we've got the incident review report and it's a public
8 document, why don't I send it out. And so I started giving it
9 to all the pilots, all the investigators. I've got a list at
10 the bottom of the report that shows who all it goes to. The
11 current number, I think, is 92. All the trainees get it. And
12 the response was so positive that I've been doing it ever
13 since. But in answer to your question, no, it's not in
14 regulation.

15 Q. So this is, this is something that you have
16 determined based on your experience to get the word out.

17 A. Yes.

18 Q. It's not, it's not laid out as a procedure, but this
19 is something that you do?

20 A. Yes.

21 Q. Okay. If these lessons learned or once these lessons
22 learned go out, are there any instances where policy changes or
23 procedural changes would be made and adopted by the pilots, the
24 bar pilots? In other words, in other words, let's say that --
25 I'll use an example. Let's say once a lesson is learned in a

1 particular situation is let's say in the future the pilots will
2 board in this area to allow for longer turnover between a
3 pilot -- let's -- as a pilot change. Now would that just be
4 mentioned as a best learned or best practiced or would that
5 actually become a -- could that actually become a policy
6 adopted by the pilots?

7 A. That would be up to the pilots, but I don't think we
8 would try to put that in regulation.

9 Q. Uh-huh. No, I was just, what I was looking for is
10 the pilots have their set of guidelines that they operate with.
11 Is it, is it procedure that if it is a best practice or a good
12 lesson learned that they would insert it into their practices?
13 Not as a regulation but as their -- as a guideline to their
14 operations.

15 A. Well, that would be up to them.

16 Q. Okay.

17 A. I mean I --

18 Q. Right.

19 A. -- I stay out of operations.

20 Q. Okay. The process is that you get the word out and
21 it's up to the pilots to determine if they're going to make
22 that a policy change or a procedural change?

23 A. Yes.

24 Q. Okay. I just was trying to find the delineation
25 between where your -- where you end and the pilots take over as

1 far as a lesson learned.

2 A. Part of the spreading of the information -- I mean I
3 have the 92 copies that would go out for distribution, but when
4 we are closing out an incident, that's done at the board
5 meeting and the, basically a recap of what the incident was,
6 opinions of the Incident Review Committee, and recommendations
7 are all put into the Board minutes, which go out to a much
8 wider mailing and now are available on line.

9 Q. Another question. With regard to incidents, are
10 there any more serious incidents that would be cause for
11 concern that would -- there's an incident -- is there any way
12 that would flag by your group saying this is a very serious
13 incident and, you know, there's greater concerns for this? Or
14 are you just looking at -- what I'm asking you is when we
15 talked, when you mentioned John -- or Captain Cota had six
16 incidents in the last year, was there anything that peaked your
17 interest as far as any of those incidents being you know of
18 greater severity that would cause more concern on the
19 Commission's part?

20 A. You mean was there a red flag out there?

21 Q. Yes. Uh-huh.

22 A. The only, the only red flag was the, the
23 inappropriate behavior on the Tarawa.

24 Q. Okay.

25 A. We thought that it was unprofessional. We had other

1 harsher words that we used also. But that had been attended
2 to. The, the grounding that happened a year before, as I say,
3 we considered serious enough because he didn't catch it and
4 respond, that we gave him a letter of warning. We didn't find
5 it was something we thought suspension was appropriate on.
6 Also it was pretty minor. But there are incidents that do get
7 more attention, and we investigate everything that's reported
8 to us, and when necessary, we take actions in accordance with
9 the, the seriousness of it. And we, we had one several years
10 ago where we were moving toward a suspension or revocation
11 hearing. The same pilot some years before that had another
12 incident that was serious to the point that he stipulated to a
13 nine-month suspension. And if he hadn't done that, we would
14 have gone for a suspension or revocation hearing.

15 UNIDENTIFIED SPEAKER: May I just make a comment so
16 that there's -- the record doesn't become unclear. Mr.
17 Toledo's question I think implied that the evidence indicates
18 that Captain Cota had six incidents in the last year. I think
19 that the testimony in the record would probably reflect that --
20 I don't know whether it was six incidents in the last 10 years
21 or 15 years but there's nothing to indicate that Captain Cota
22 had incidents in the last year. I think that statement by
23 Captain Cota -- by Captain Maloney was some years in which
24 there are only six incidents investigated, and not six
25 incidents by Captain Cota.

1 UNIDENTIFIED SPEAKER: That's correct.

2 CAPT. TOLEDO: Okay. Thank you.

3 BY CAPT. TOLEDO:

4 Q. The incident with Captain Cota on the Tarawa, which
5 was, the recommendation was that he seek or go to a -- seek
6 psychiatric treatment or an evaluation.

7 A. Yes.

8 Q. And the information that came back was that there was
9 no, there was not a psychiatric -- he did not have a
10 psychiatric problem or he, he got a clean bill of health. I
11 guess that's what you had meant.

12 A. Yes. And we sent him to two psychiatrists.

13 Q. Is -- does the Commission make any recommendations as
14 far as like an employee assistance? In other words, an
15 individual who -- well, I guess in this particular case, it
16 was -- the cases I'm referring to it's -- there was anger. It
17 involved anger on the bridge or something to that effect, him
18 being agitated. Is there any -- would there be any indication
19 or inclination that the Commission would say perhaps, you know,
20 you should, you should take anger management or go to anger
21 management?

22 A. We did.

23 Q. You did. And his reply was?

24 A. He did.

25 Q. He did?

1 A. Yes.

2 Q. Okay. Well, that's good because I, I did not have
3 that in the record. Glad to know that. With regard to the
4 Coast Guard and their authority on the license, the Coast Guard
5 does not have authority over the state, over the license
6 activity -- or the activity of the pilot when he's in state
7 waters, is that correct?

8 A. There, there are jurisdiction questions. We -- there
9 are legal technicalities, which I'm told about, but as I say,
10 we don't let them hinder us. If, if a pilot has an incident
11 anywhere within our jurisdiction, we investigate it. It has
12 been said if the pilot is operating on a U.S. flag intercoastal
13 ship, he's operating under the authority of his federal
14 license, not his state license. But if there was an incident,
15 we would investigate. And there's precedent with that. Matter
16 of fact, it has Mr. Petzel's (ph.) name attached to it.

17 UNIDENTIFIED SPEAKER: -- have to do with Coast Guard
18 authority.

19 CAPT. MALONEY: Did I answer your question?

20 BY CAPT. TOLEDO:

21 Q. In a sense in that no, I guess the answer is no, per
22 se. Is that, is that what I understand in this particular
23 case, and anyone -- if there is an incident with a pilot in
24 inland waters that Coast Guard authority is --

25 A. Well, they have authority to investigate also.

1 Q. Authority. Do they have the authority to go against
2 the license, I guess is what --

3 A. His federal license, yes.

4 Q. His federal license but not his, not his state
5 license?

6 A. We act against the state license only.

7 Q. One last question. With regard to training, do you
8 recall Mr. -- or Captain Cota's last training session? Was it
9 within the last year or two or do you recall?

10 A. I could find out, but I don't recall.

11 Q. Is there a requirement that -- you mentioned the
12 three-year cycle for each of -- for the pilots to go through
13 their training, and is there a way to keep track of who is, who
14 is going through the training?

15 A. Oh, yes.

16 Q. And is there --

17 A. We've got that information.

18 Q. Is there, is there also a check and balance in place,
19 you know, if someone has fallen through the cracks for whatever
20 reason that there's a follow-up, say Pilot A, you, you've
21 missed your training, you know -- we need to get you back in?
22 Is there -- or is it left up to the pilot?

23 A. We keep track of it, and actually a pilot who misses
24 training can be subject to disciplinary action.

25 Q. Okay. That is part of the, the procedures?

1 A. Yeah.

2 Q. Okay.

3 A. There are times when we'll adjust the training cycle
4 to accommodate someone. So it might not be three years, you
5 know, when he last was trained. It might be three and a half
6 or four. The five-year cycle on the Grenoble, same thing.
7 There's some -- modest tweaking that's done with that, but in
8 general we're pretty good about keeping the guys on cycle. But
9 we do, we do track and make sure that they, they go, and they
10 know there's the hammer over the head if they don't.

11 CAPT. TOLEDO: Thank you. No further questions.

12 BY MR. BROWN:

13 Q. Steve Brown with the American Pilots Association. A
14 question or two on the physicals. You mentioned that based on
15 age I guess it was, a pilot is required to have a physical,
16 pilot physical every year or every other year.

17 A. I forget what the trip age is. It may be 50 years
18 old where we start every year. A first-class pilot is required
19 to have a physical for the Coast Guard every year. Our younger
20 guys we only have the state requirement for every two years. I
21 think if you're, if you're young enough, and we don't have many
22 that, that are, it goes to a three-year requirement.

23 Q. Do the requirements for the state and for the federal
24 license parallel each other, physical requirements? There's a
25 form within your federal physical that you have to --

1 mariner -- and is the state form similar?

2 A. We give them a copy of the federal form. Our -- what
3 we get back from the doctors is just a fit for duty, not fit
4 for duty or permanently not fit for duty. We don't see the
5 details.

6 Q. So in fact the pilots are required to take the
7 physical every year, but they're required to -- to the state
8 every other year or --

9 A. Depending on their age, yeah.

10 Q. And I guess one basic question. Does the Commission
11 recognize the right of a pilot to legal counsel in incidents,
12 investigations?

13 A. Yes.

14 Q. Apparently some people don't, so --

15 A. Really?

16 MR. BROWN: That will do it for the moment.

17 BY MR. NAGARAJAN:

18 Q. Aga -- I have one question about licensing. If my
19 understanding is correct, the state issues a license based on
20 federal license issued to pilot?

21 A. The federal license is a prerequisite. They have to
22 have a valid federal license in order for the state license to
23 be valid.

24 Q. Do we have dual examinations or their own tests or
25 can a pilot have only the state license and not have federal

1 license?

2 A. No. You have to have the federal license in order to
3 have the state license. For instance, if a pilot, if a pilot's
4 federal license expired, his state license would not be valid
5 until his federal license is renewed.

6 Q. Coming back to if the state license is issued on the
7 basis of federal license, how is it that in an accident which
8 happened in state cannot be investigated by the fact on the
9 basis of his federal license? What is the -- you don't have to
10 explain. Just as an outsider, I just wanted to get an insight
11 if the license is issued based on some other license and --
12 federal government does not have jurisdiction over
13 investigation?

14 A. Well, no, they, they can and do. I mean Ross is
15 doing an investigation in parallel with mine.

16 Q. At the --

17 UNIDENTIFIED SPEAKER: I don't know if we want to get
18 on the record the subtle distinctions between state and federal
19 jurisdiction and the whole history of the establishment of the
20 State of California or Pilots Association and the Ninth Circuit
21 Court of Appeals decisions which basically distinguish between
22 federal jurisdiction and state jurisdiction. It goes on *ad*
23 *nauseum*, and I'm not so sure that this is the right forum to be
24 discussing that. I think it may be sufficient for the record
25 that there is a distinction between respective jurisdictions of

1 the state and federal government to take action against the
2 respective licenses. And if you need some type of supplemental
3 white paper explaining those and the regulations that apply, I
4 guess we could endeavor to do that or provide something --
5 there have been a number of articles, cases, et cetera, which
6 discuss that at length.

7 UNIDENTIFIED SPEAKER: And I guess this would be an
8 appropriate time to say that the National Transportation Safety
9 Board is the jurisdiction to investigate any and all marine
10 accidents in U.S. coastal waters, which we share with our
11 colleagues from the Coast Guard.

12 MR. PETZEL: Well, I think maybe what -- Captain
13 Maloney can speak to. He may not be able to speak to the issue
14 of when can the Coast Guard investigate and when can it not
15 investigate, at least not -- that's not necessarily his job,
16 but earlier Captain, you had asked the question and asked a
17 second question, and the first part didn't get answered, and
18 that is is there more than just having a federal license
19 necessary before a pilot can get a state license. And Captain
20 Maloney can't speak to the -- process, the selection process
21 that trainees go through, and the training program that the
22 training -- have to go through before a state license would be
23 issued to them. And maybe that was where you were leading, and
24 perhaps you can get that answer.

25 MR. STRAUCH: Would you identify yourself for the

1 record, please.

2 MR. PETZEL: I'm sorry. My name is Raymond Petzel,
3 counsel for this incident, for this matter today for Captain
4 Maloney as the Executive Director of the Board of Pilot
5 Commissioners.

6 MR. STRAUCH: Rick.

7 BY CAPT. HURT:

8 Q. Rick Hurt, San Francisco Bar Pilots. And Captain
9 Maloney, if a pilot is involved in an incident and either the
10 severity of the incident or a pattern is identified such that
11 additional action is deemed necessary by the Commission, and in
12 the process of the investigation the pilot retires, what
13 happens to the investigation?

14 A. Well, the investigation would continue as far as
15 finding out what, what went on, and ultimately it would, it
16 would be presented. And just like everything else, we would
17 try to use it as lessons learned.

18 Q. And as far as action against the license -- been
19 retired?

20 A. If the pilot has retired, then we wouldn't act
21 against the license because he's no longer licensed.

22 Q. And has that scenario occurred?

23 A. It has occurred.

24 Q. And how long ago?

25 A. Just several, several years ago was the last one,

1 and --

2 Q. More than once?

3 A. Oh, yeah.

4 Q. Okay.

5 A. Yeah, it's, it's happened a few times.

6 Q. Okay. And you, you touched on, you touched on the
7 port agents, that you expected the port agent to, to not
8 dispatch pilots if there was concern. To your knowledge, has,
9 has the port agent ever exercised that authority?

10 A. Yes.

11 Q. And frequently or within last two years?

12 A. Well, certainly in this case, and, yes, it's, it's
13 happened in the last few years. It doesn't happen all that
14 often. This is not a, you know, who hasn't been dispatched
15 this month issue. But, you know, the port agent has the
16 discretion to not dispatch a pilot.

17 Q. And, okay, and another -- recent was a grounding up
18 river.

19 A. Yes.

20 Q. In the last five years, how many groundings -- have
21 occurred up river from -- just roughly, just -- would you say
22 more than five?

23 A. Yeah, I would, I would say.

24 Q. And then lastly, you touched on the selection
25 process. Just for the record, can you just very briefly

1 describe the elements of the selection process for the
2 pilots --

3 A. Yes. We have just gone through this process, so
4 it's, it's fresh in my mind. We, we advertise nationally. An
5 applicant fills in the application, has to meet minimum
6 requirements, which include a minimum 1600-ton Master's License
7 and documentation of a minimum of two years command time. Two
8 years being defined as 720 days. It has to be one year within
9 the last three prior to the application cut-off date and two
10 years within the last five. So there is a recency requirement.
11 For those who are qualified and meet the minimum standards,
12 they're invited to come in and take a test. The test is
13 developed under the supervision of psychometricians. It's a
14 rigorous 100-question test. We've been doing this,
15 administering it up at California Maritime Academy. While the
16 test is going on, a group of San Francisco bar pilots is also
17 taking the same test. The psychometricians determine from that
18 score what the passing score of the test will be. Those
19 candidates who have taken the written test and passed it are
20 then invited to come back and take the simulator exam.
21 Simulators at Cal Maritime also. That exam has been developed
22 using psychometricians, and has quantifiable grading spots. We
23 have a group of evaluators come in. The, the evaluators are a
24 San Francisco bar pilot, a pilot from another jurisdiction, the
25 state licensing, and a shipmaster. Everyone who is doing the

1 evaluation is trained in how to do it. We make multiple test
2 runs. And then they, the candidates take the simulator exam.
3 We record those. And then after all that is done, the scores
4 are, are added up. Experience points are counted. We have a
5 in regulation how to determine experience points from what the,
6 the candidates bring prior to our testing process. The written
7 score is put in and then the simulator score is put in. From
8 that we develop a ranked list of candidates and as the need
9 allows they're brought into the training program. The training
10 program is a minimum of one year and a maximum of three. Those
11 individuals are contracted by the Commission. Every -- well,
12 the first step is if they don't already have their federal
13 pilotage, they go for that. We're finding someone who does not
14 have it when they come into our training program, it's
15 typically taking seven to nine months to get all the pilotage
16 for the, the bays. That includes up to Sacramento and
17 Stockton. Our jurisdiction also goes down to Monterrey, but we
18 do not do any training down there. That's done by a, a group
19 of very few of the pilots do Monterrey. Anyway, they -- after
20 the trainees get the -- all the pilotage done, they start
21 writing their score, if you will. Every job is graded, and
22 then every month the trainees are called in individually and
23 their progress reviewed by the Pilot Evaluation Committee, and
24 the Evaluation Committee determines when they have been
25 sufficiently prepared for licensing. It's a very rigorous

1 process.

2 Q. One last question. Best of your knowledge did --
3 practical performance using the simulator?

4 A. I believe they're starting it up in Puget Sound now,
5 aren't they?

6 Q. -- Alaska, Puget Sound and -- thank you.

7 BY UNIDENTIFIED SPEAKER:

8 Q. I just have a few questions. Captain Maloney, you've
9 talked extensively about the, the Board of Pilot Commissioners
10 role as an investigator in the Investigative Review Committee.
11 Is the term incident, which seems to be the triggering factor
12 in commencing an investigation, is that term defined in either
13 statute or regulation?

14 A. No.

15 Q. So unlike, unlike federal requirements which
16 require -- which is spelled out in for example 46 C.F.R. Part
17 4, there are not some more state regulations which establish
18 what a reportable incident is?

19 A. No. There are not.

20 Q. How do you determine what is a reportable incident to
21 trigger an IRC investigation?

22 A. If we get a complaint, we would look into it.
23 Typically the, the normal way is the port agent will report to
24 me if a pilot reports an incident. On occasion, someone from
25 the public may call in a complaint about wake damage or

1 something like that. It's, it's pretty cut and dry as far as
2 the pilots reporting what they perceive to be incidents. I can
3 take a look at it initially and see if it meets what I perceive
4 to be an incident requirement, and then I would get involved
5 with the investigation.

6 Q. So it would be fair to say that you have some
7 discretion in deciding what incidents -- are or are not
8 investigated on behalf of the Commissioners?

9 A. Some discretion, yes.

10 Q. Can you give us based on your experience here what
11 would be a number of incidents on average, if you could,
12 typically investigated in a year for the Board of Pilot
13 Commissioners?

14 A. It varies, and there's no way of predicting it. I've
15 had several years where there have been as few as six incidents
16 investigated. The most I recall is 19 in one year. There's,
17 there's no pattern. You know, you'd think in real nasty
18 weather conditions you might have more, but that doesn't, that
19 doesn't come to pass. Could be everybody is being much more
20 careful.

21 Q. You had also indicated that it's based upon the
22 investigation by the, the IRC and the Board they determine that
23 some type of we'll call it disciplinary or enforcement action
24 would be appropriate. Are those, the -- of those potential
25 actions defined anywhere, for example a state regulation

1 or --

2 A. They are. There's -- there are suggestions as to
3 what might be an appropriate remedial action, but it, it also
4 allows discretion based on the circumstances or -- for instance
5 if the IRC reviews the accident record of an individual. This
6 is, this is more than what we want to see here, and so
7 something beyond the suggested guidelines could be taken.

8 Q. Would the IRC consider in making that determination
9 or recommendation the past history of the individual pilot
10 involved in making, in determining what an appropriate sanction
11 or -- action might be?

12 A. We do that every time, yes.

13 Q. To the best of your recollection, could you tell us
14 basically when was the last time the IRC actually suspended a
15 state pilot license?

16 A. The IRC doesn't have --

17 Q. Or made a recommendation to do that.

18 A. The last time we actually went to court was probably
19 back 2000. We, we had recommendations for hearings proceeding,
20 but having the pilot retire stopped that. The last one, you
21 know, it was -- California Orion case is the last one we
22 actually had the hearing on.

23 Q. And you indicated that there had been several we'll
24 say retirements in lieu of going to a hearing subsequent to
25 that. Do you recall just roughly how many?

1 A. Well, between that one and now, just one. That was
2 the, the Maui case three years ago, four years ago.

3 Q. To the best of your recollection since you've been
4 serving as the Executive Director of the Board of Pilot
5 Commissioners, what is the most severe sanction, enforcement,
6 remedial action that you recall ever being levied against a
7 state pilot's license?

8 A. Well, the California Orion case, the license was
9 revoked but stayed on two years probation. I believe there was
10 a six-month outright suspension. We had the stipulated case
11 where the pilot took a nine-month suspension, and we've had a
12 few other cases where -- which didn't go to court, but the, the
13 pilot decided to retire. It was a real viable option.

14 UNIDENTIFIED SPEAKER: I don't have any more
15 questions.

16 BY UNIDENTIFIED SPEAKER:

17 Q. Captain, you said in the Tarawa incident you sent
18 Captain Cota to two -- for two psychiatric evaluations.

19 A. Yes.

20 Q. Why two and not one?

21 A. We didn't think the first one was sufficient. So we
22 asked for a second opinion.

23 Q. And the first one was the one where there were five
24 pages of, of written reports where they charged \$2500 for the
25 evaluation?

1 A. I don't recall. I, I can get the file and --

2 Q. And what was it that made you think that that wasn't
3 sufficient?

4 A. Just reviewing it, we, we didn't, didn't like the
5 conclusions.

6 Q. So it was the conclusions and not the process that
7 made you feel that the second opinion was needed?

8 A. I don't recall. I, I would have to take a look at
9 the file.

10 Q. How many other times -- well, how long have you been
11 an Executive Director?

12 A. Coming up on 15 years.

13 Q. In the 15 years, how many times have you sent a pilot
14 for a psychiatric evaluation?

15 A. Twice.

16 Q. Okay. And what -- just briefly, what was the other
17 incident and when did that occur? And the nature of the other
18 incident in general.

19 A. A pilot threatened another pilot on the pilot boat
20 with an axe.

21 Q. And what was the resolution of that?

22 A. We sent him to the psychiatrist also and he came back
23 with a piece of paper saying he was sane.

24 Q. Okay.

25 A. None of us have one.

1 Q. Was this the same psychiatrist that you initially
2 sent Captain Cota to?

3 A. I don't think so.

4 Q. Now could you just briefly describe for me the nature
5 of the oversight of the pilot? I understand first is the
6 Pilots Association, then it's the Commission. Is that how it
7 works? And then who oversees the Commission's performance?
8 Kind of just walk us through the process briefly.

9 A. Well, what -- how do we oversee the pilots?

10 Q. No. Is it -- do you expect -- how do you expect the
11 Pilots Association to oversee a pilot? Is that part of, part
12 of what the Commission does is overseeing of the Pilots
13 Association, oversees individual pilots?

14 A. No. We stay removed from the operational aspect of
15 it.

16 Q. Does the Pilots Association have any responsibilities
17 of oversight other than just, you know, making sure that pilots
18 are where they're supposed to be and so on?

19 A. Good professional business practices.

20 Q. Okay. So the Pilots Association is primarily a
21 business rather than an overseeing regulatory kind of an
22 agency?

23 A. Yes.

24 Q. Okay. And who does the Commission report to?

25 A. The Governor.

1 Q. Directly?

2 A. Yes.

3 Q. Okay. You said that if a pilot missed training, he
4 or she would be disciplined. How many times has that occurred
5 in the 15 years you were --

6 A. We've never had one miss training. As I alluded to
7 we can adjust the training schedules, and so there have been
8 occasions where something came up, and we were able to
9 accommodate it, but no one has deliberately missed training.
10 If they had, disciplinary action would have followed.

11 Q. You said the most recent suspension was in
12 approximately 2000 in California, Orion case. How many other
13 suspensions were there in your tenure with the Commission?

14 A. We've had stipulated suspensions from the IRC, and I
15 haven't counted them, but probably at least a dozen. The nine-
16 month suspension was the longest. The -- we had a -- and this
17 is just anecdotal. I'm -- searching my memory. It seems to me
18 there were a couple of two-month stipulated suspensions, and
19 pretty fair number of two-week stipulated suspensions. More
20 often than doing a suspension, we would have pilots do training
21 trips or we've sent them to school at their own expense.

22 Q. In your discussions with other commissions, you said
23 you, you just talk things over with -- in Puget Sound and
24 others. How does the Commission's disciplinary record compare
25 to those commissions?

1 A. I don't know.

2 Q. You said your reports are made available online?

3 A. The reports are available online through the Board
4 minutes. And the -- that is only the, the synopsis of what the
5 incident was about. Anyone in the public can ask for the full
6 report, which would have the findings of facts and then
7 everything else that shows up in the minutes.

8 Q. What is the website? Can you --

9 A. Dub, dub, dub dot pilot commission dot org.

10 Q. Okay. And for the record, psychomatrixian is spelled
11 p-s-y-c-h-o-m-a-t-r-i-c-i-a-n. Because in the last transcript
12 it was misspelled.

13 A. Okay.

14 Q. And, finally --

15 A. If we're to find someone who actually knows what that
16 is.

17 Q. I went to school in that field many years ago. And
18 you graduated Kings Point?

19 A. Yes.

20 Q. How did you like Kings Point?

21 A. I did.

22 Q. Okay.

23 A. I, I enjoyed my time there.

24 Q. Thank you.

25 MR. STRAUCH: One last round of questions. Gary?

1 CAPT. TOLEDO: Nothing from us.

2 MR. STRAUCH: Steve.

3 BY MR. BROWN:

4 Q. I, I guess I'm hung up a little bit on the, on the --
5 the physician, the four physicians that apparently are
6 contracted or whatever it is a pilots are allowed to see to
7 get -- for their certificate that says that they're
8 sufficiently competent, what is that physician basing his
9 recommendation on? Is it strictly the federal physical --

10 A. What's in SHIPS and what's on the, the federal form.
11 I mean we don't have our own state physical form. And, you
12 know, we're, we're not competent to do that.

13 Q. I was aware of that. I wasn't quite sure you were
14 aware of that. But the SHIPS primary and the federal form?

15 A. Yes.

16 Q. Great. Thank you. That's it.

17 UNIDENTIFIED SPEAKER: No questions.

18 MR. STRAUCH: Ross.

19 MR. STRAUCH: Nothing for the --

20 UNIDENTIFIED SPEAKER: One last question.

21 BY UNIDENTIFIED SPEAKER:

22 Q. The four physicians that were -- that, that the
23 Commission uses to send their pilots to, what additional
24 training, guidance information does the Commission provide
25 these physicians so that they would be familiar with what is

1 expected of a qualified pilot to perform --

2 A. We do not give them any training. We provide them
3 with the, the SHIPS manual. That is something we're, we're
4 looking into as far as, you know, should we be doing more. But
5 right now we're just operating what was approved, and seeing if
6 there's some, some better way to do it.

7 Q. And you said the Commission is reviewing whether or
8 not to provide more information?

9 A. Well, we want to see what else is out there. The
10 SHIPS guidelines as approved go back to 1985, and it could be
11 that the Coast Guard has a NAVIC out that may be what we want
12 to say is the guideline, but that's being reviewed.

13 Q. Okay. And what precipitated the review?

14 A. Well, the Cosco Busan incident. Although we, we've
15 known for a long time that the SHIPS guidelines were there in
16 1985. There was a 1996 update on it, but it was never
17 approved.

18 Q. What about the Cosco Busan incident that precipitated
19 the reconsideration of the guidelines?

20 A. Well, there's nothing in here that addresses
21 medications.

22 Q. As long as the pilot provided the Coast Guard with a
23 list of medications that he was taking, would that be the Coast
24 Guard's responsibly or the Pilots' Commission's responsibility
25 to ensure that those medications were acceptable for use while

1 on duty?

2 A. Well, once again, we don't have any competence in
3 that field, so it's not included in our requirements now, and
4 we don't have the expertise to make any decisions on it.

5 Q. You said the guidelines were revised in 1994 but they
6 were not approved?

7 A. '96, I believe.

8 Q. '96. Okay. Why were they not approved?

9 A. I don't know.

10 Q. Okay.

11 MR. STRAUCH: No further questions. Anybody else
12 further questions?

13 All right, Captain. It's now 10:10 -- 10:08. I
14 appreciate -- if you can offer us any further comment before we
15 conclude this --

16 CAPT. MALONEY: No.

17 UNIDENTIFIED SPEAKER: Whether on the record or off,
18 to the extent that Captain Maloney was going from memory about
19 certain things and that in fact there is additional information
20 available, can that be provided along with the documents that
21 you asked for?

22 MR. STRAUCH: Yes, please.

23 That concludes the interview. Thank you very much.

24 (Whereupon, at 10:08 a.m., the interview in the
25 above-entitled matter was concluded.)

CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: M/V COSCO BUSAN/BRIDGE ALLISION
 SAN FRANCISCO, CALIFORNIA
 Interview of Capt. Patrick Maloney

DOCKET NUMBER: DCA-08-MM-004

PLACE:

DATE: January 31, 2008

was held according to the record, and that this is the
original, complete, true and accurate transcript which has been
compared to the recording accomplished at the hearing.

Katherine Motley
Transcriber